
**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

OSCAR ELIAS NUNEZ,

Plaintiff,

v.

ANNA ROSSI ANDERSON,

Defendant.

**MEMORANDUM DECISION &
ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL**

Case No. 1:24-cv-00159

Magistrate Judge Dustin B. Pead

Plaintiff Oscar Elias Nunez, proceeding *in forma pauperis* (without paying the filing fee), filed this action against Defendant Anna Rossi Anderson on September 23, 2024.¹ Mr. Nunez now moves for appointment of counsel.² Because Mr. Nunez does not provide a reason for his request, the motion is denied without prejudice.

While defendants in criminal cases have a constitutional right to representation by an attorney,³ “there is no constitutional right to appointed counsel in a civil case.”⁴ Appointment of counsel in civil cases is left to the court’s discretion.⁵ Indigent parties in civil cases may apply for appointment of counsel under 28 U.S.C. § 1915(e)(1), which allows a court to “request an

¹ ECF No. 1, Complaint.

² ECF No. 2, Motion to Appoint Counsel.

³ See U.S. Const. amend. VI; Fed. R. Crim P. 44.

⁴ *Durre v. Dempsey*, 869 F.2d 543, 547 (10th Cir. 1989).

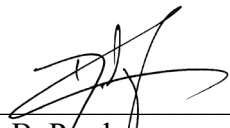
⁵ *Shabazz v. Askins*, 14 F.3d 533, 535 (10th Cir. 1994).

attorney to represent any person unable to afford counsel.” The applicant has the burden to convince the court that his claim has enough merit to warrant appointment.⁶ When deciding whether to appoint counsel, the court considers a variety of factors including “the merits of the litigant’s claims, the nature of the factual issues raised in the claims, the litigant’s ability to present [the] claims, and the complexity of the legal issues raised by the claims.”⁷

Mr. Nunez asks the court to appoint counsel but states no reason or basis for the request. As outlined above, this is insufficient to warrant appointment of counsel in a civil case. Accordingly, the court DENIES Mr. Nunez’s motion for appointment of counsel without prejudice.⁸

DATED this 24th day of September, 2024.

BY THE COURT:



Dustin B. Pead
United States Magistrate Judge

⁶ *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985).

⁷ *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995) (internal quotation marks omitted).

⁸ ECF No. 2.